



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

January 21, 2010

Memorandum for:

Deputy Commissioner, Trials

Re:

**Detective Juan Lebron**  
Tax Registry No. 919288  
Narcotics Borough Bronx  
Disciplinary Case No. 83889/08

The above named member of the service appeared before Assistant Deputy Commissioner John Grappone on August 18, 2009 and was charged with the following:

**DISCIPLINARY CASE NO. 83889/08**

1. Said Detective Juan Lebron, assigned to Narcotics Borough Bronx, on or about October 20, 2007, while off-duty, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department to wit: said Detective did recklessly engage in conduct which created a substantial risk of serious physical injury to himself or to another person by standing on a public street and placing a loaded firearm up against his neck in front of an individual known to the Department. (As amended)

**P.G. 203-10, Page 1, Paragraph 5**

**PUBLIC CONTACT – PROHIBITED CONDUCT – GENERAL REGULATIONS**

2. Said Detective Juan Lebron, assigned to Narcotics Borough Bronx, on or about October 20, 2007, did fail and neglect to properly safeguard his firearm. (As amended)

**P.G. 204-08, Page 2, Paragraph 7**

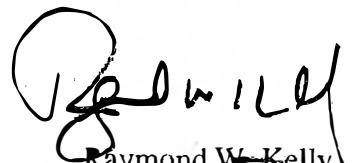
**FIREARM GENERAL REGULATIONS  
UNIFORMS AND EQUIPMENT**

In a Memorandum dated December 9, 2009, Assistant Deputy Commissioner Grappone accepted Respondent Lebron pleading guilty to the above two Specifications. Having read the Memorandum and analyzed the facts and circumstances of this entire matter, I approve the findings, but disapprove the recommended penalty.

I concur with Assistant Deputy Commissioner Grappone's assessment that Respondent Lebron's behavior compromises his ability to remain a viable officer of this Department. However, with consideration of all evidence and circumstances adduced at trial, including his otherwise very good service and performance history, I will permit the Respondent an alternative manner of separation from the Department at this time.

It is therefore directed that a post-trial Vested-Interest retirement agreement be implemented with the Respondent. In consideration of such, Respondent Lebron is to forfeit all prior suspension without pay days already served, plus remain on suspended-duty status until his final date of separation from the Department, plus forfeit all accrued time/leave balances, plus be immediately placed on a One-Year Dismissal Probation period.

Such Vested-Interest retirement shall also include Respondent Lebron's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Respondent Lebron does not agree to the terms of this Vested-Interest retirement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY.**



Raymond W. Kelly  
Police Commissioner



POLICE DEPARTMENT

In the Matter of the Disciplinary Proceedings : X

- against - : FINAL

Detective Juan Lebron : ORDER

Tax Registry No. 919288 : OF

Narcotics Borough Bronx : DISMISSAL X

Detective Juan Lebron, Tax Registry No. 919288, Shield No. 1933, Social Security No. ending in [REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 83889/08, as set forth on form P.D. 468-121, dated March 6, 2008, and after a review of the entire record, has been found Guilty as Charged.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Detective Juan Lebron from the Police Service of the City of New York.

RAYMOND W. KELLY  
POLICE COMMISSIONER

EFFECTIVE:



## POLICE DEPARTMENT

December 9, 2009

**In the Matter of the Charges and Specifications** : **Case No. 83889/08**

- against -

## Detective Juan Lebron

Tax Registry No. 919288

## Narcotics Borough Bronx

At: Police Headquarters  
One Police Plaza  
New York, New York 10038

Before: Honorable John Grappone  
Assistant Deputy Commissioner - Trials

APPEARANCE:

For the Department: Krishna O'Neal, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, New York 10038

For the Respondent: Peter Brill, Esq.  
Karasyk and Moschella, L.L.P.  
225 Broadway 32<sup>nd</sup> Floor  
New York, New York 10007

To:

HONORABLE RAYMOND W. KELLY  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

COURTESY • PROFESSIONALISM • RESPECT

The above-named member of the Department appeared before me on August 18, 2009, charged with the following:

1. Said Detective Juan Lebron, assigned to Narcotics Borough Bronx, on or about October 20, 2007, while off-duty, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department to wit: said Detective did recklessly engage in conduct which created a substantial risk of serious physical injury to himself or to another person by standing on a public street and placing a loaded firearm up against his neck in front of an individual known to the Department. (*As amended*)

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT- GENERAL REGULATIONS

2. Said Detective Juan Lebron, assigned to Narcotics Borough Bronx, on or about October 20, 2007, did fail neglect to properly safeguard his firearm. (*As amended*)<sup>1</sup>

P.G. 204-08 Page 2, Paragraph 7 – FIREARM GENERAL REGULATIONS UNIFORMS AND EQUIPMENT

The Department was represented by Krishna O’Neal, Esq., Department Advocate’s Office and the Respondent was represented by Peter Brill, Esq.

The Respondent, through his counsel, entered a plea of Guilty to the subject Charges and Specifications. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner’s review.

DECISION

The Respondent, having Plead Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

While this proceeding is primarily a Mitigation Hearing with the Respondent pleading Guilty to the subject charges, the Respondent nevertheless called Doctor

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<sup>1</sup> Specification No. 2 was Specification No. 1 on the original Charges and Specifications.

Elizabeth Fitelson and Doctor Alice Steiner as witnesses on his behalf. The Respondent further testified in his own behalf.

Doctor Elizabeth Fitelson

Doctor Fitelson is a psychiatrist currently employed by Columbia University. She is the attending psychiatrist at the Intensive Outpatient Program and her relationship with the Department "is a program called Project Hope which is basically funding from a private source or from the Police Foundation, and we get referrals of a lot of police officers for care." She also noted that a lot of the referrals are self referrals along with those referred for psychological services or early interventions. Since 2007, Fitelson has treated approximately 30 members of the Department.

Fitelson stated that the Respondent was referred to her by Doctor Fiona Radcliff of the Department's psychological services. She stated he acted on the referral "after an incident that had occurred about two weeks before I saw him in which he had, during an argument with his girlfriend at the time, made a [REDACTED]." She acknowledged that the incident occurred on October 19 into October 20, 2007. Fitelson first spoke to him when they met on November 2, 2007.

After the initial diagnostic interview and evaluation, Fitelson decided that the treatment he required was [REDACTED] and they both initiated weekly individual visits which are currently ongoing. She stated that his issues were "response to stress, coping skills, understanding what happened and why, dealing with the consequences of stress in various ways." They focused on his girlfriend and "what preceded the incident in the relationship, what happened on the day of the incident, and how he was dealing with the

aftermath." While Fitelson did not remember all the details of the relationship, she stated that "it sounded like there had been some friction between them for a number of months and some escalating tensions between them, arguments....On the day of the incident, he had gone out with a couple of friends after work and had, I believe he said, two drinks and then returned home. And then he had gotten a call either from the girlfriend or from another friend and ended up going to the girlfriend's house. They argued outside the house, and that's when Detective Lebron had pulled out his gun and made a [REDACTED] gesture."

Fitelson met with the Respondent weekly for the first six months and after that it's been approximately every two to four weeks. Her "impression at that time and since then was that Detective Lebron was going through what we call an [REDACTED] which basically is an intense reaction to a stressful situation, an emotional reaction to a stressful situation and that it was really more of an --- it occurred in the context of their argument and the relationship, and it was really more about getting attention rather than actually wanting to [REDACTED] in any way. He did have some symptoms that were consistent with a [REDACTED]. It was never clear to me whether that preceded the incident or whether that was, like I was saying, dealing with the aftermath. I did prescribe an [REDACTED] for a number of months which had maybe mild benefit[s] but it was stopped because of side effects, and he has been off the medication since ---on no medication since May of 2008." She described the side effects as "sedation," "fatigue" and "dizziness."

She further characterized the incident on October 20 "as a problem with coping with a certain type of emotional stress, relationship stressors." As a result of his

treatment, Fitelson stated that he has made significant changes in his ability to cope with stress. She believes that he has made a lot of progress in understanding "the kinds of stresses that are difficult for him and his ability to cope with them." When asked if she foresaw the same type of problem arising if the Respondent was faced with the same circumstances, she stated, "I can't prognosticate totally, but I believe that Detective Lebron would not get into the same situation, and I don't believe that he would respond in the same way."

When the Court reminded Fitelson that part of Respondent's job as a police officer requires him to carry a firearm and was she comfortable with placing a firearm back in his hands, she stated, "I can't comment on his fitness for duty exactly, but again the Department psychologist did clear him for fitness for duty, and again, I see no reason to have any concerns about that." Fitelson acknowledged that there are relapses in her business, in terms of people's ability to cope, where they need to come back to her and go through further treatment to bring them back to where they were before.

When further asked of the possibility of the Respondent repeating the behavior he exhibited on October 20, and along with having a gun in his hand, whether or not she had any reservation about his safety, she stated "there is no particular reservation for Detective Lebron -- in that I could never predict the future a hundred percent, but I have no concern about his safety, I have never had concerns actually from the beginning when I saw him, I was not concerned about his safety at the time. . . that remained true throughout the almost two years I have been seeing him and looking to the future." While she acknowledged that he did not have a gun during that time, looking ahead in the future, if he does have a gun she still was not concerned for his safety. She also noted

that while she was not concerned about his safety, she also was not concerned for the safety of others. When asked again by the Court if she agreed that patients do have relapses, she stated "some patients do have relapses, yes." She added that her concerns "are minimal" with "regard to the risk of relapse or the risk of any safety concern if he were to relapse."

On cross-examination, Fitelson acknowledged that during her sessions with the Respondent, her overall goals were to deal primarily with the issues of stress management, coping skills, and appreciating what happened on the night of October 20, 2007 --along with discussing ongoing issues that came up during the course of time. "For example, family stressors, or you know, coping with what was going on at work..."

When she was asked if during the 45 minute sessions with the Respondent, did she have an occasion to address his involvement in any prior domestic abuse or domestic incidents, she replied, "not to my knowledge." She stated that "we discussed prior relationships and family relationships yes." When Fitelson was then asked if she ever discussed or asked him whether or not he had any previous history of making threats of the kind that he made on October 20, 2007 involving the use of firearm she replied, "I asked him that and he indicated that he had not." As far as she knew, according to what he told her of his history, he had no previous history of taking out his weapon and using it in a threatening manner during a relationship or verbal dispute.

Fitelson further testified that during her treatment, there was discussion of the issue of alcohol use or abuse. She concluded that "In my discussions with him there was no pattern of abuse or dependence on alcohol." She clarified that "certainly not at the time I was seeing him, and I had no indication that there was any recent history of that."

Fitelson believed that there was some history in his family of [REDACTED] and believed that caused some conflict in his home and at points in his life. Her determination that the Respondent suffers from [REDACTED] was based on the fact that "he had [REDACTED] [REDACTED] some [REDACTED], [REDACTED], and some [REDACTED] which she described as not enjoying things quite as much. She further stated that they discussed the issue of depression in his family, explaining that "a family history is always part of a diagnostic interview, but just because someone has a family history of depression doesn't mean that they will have depression, but it certainly is part of the diagnostic interview." She noted that the Respondent's [REDACTED] suffers from [REDACTED] and [REDACTED] [REDACTED] That was a factor she took into account in her diagnosis of him. She further explained that "his family history, I believe, is less relevant to his - I don't believe presently his family history of [REDACTED] and [REDACTED] is as relevant to my conclusions about his safety at this time."

Fitelson further testified that the Respondent indicated to her that he had been treated by another psychologist or psychiatrist and her understanding was that "I believe there was about a three month period of what sounded like [REDACTED] in 2001 and another brief period in 2003 which didn't sound so much like [REDACTED], but he saw a counselor. I believe he was in a study, treatment study, so it was unclear whether he was on active medication or placebo." When asked if she spoke with Doctor Radcliff or Doctor Steiner from the Department's Medical Division, she said that she had spoken initially with Doctor Radcliff and had one very brief conversation with her. Her recollection of that conversation was, "this incident happened in the context of an argument, that it was about him wanting attention. She wasn't acutely concerned for his

safety at the time." When asked by the Court, how far people or the range that people will carry out their threat to themselves for attention, she stated, "there is a wide range of how people will. It really depends on the person, but from, you know, obviously people do make suicide attempts. In general, there is more going on than just the need for attention at that moment, but it can range from very, you know, mild statements, to action." Fitelson explained "this meant making a suicide attempt. Taking an overdose of medications or other ways of making an attempt. Someone with a firearm." When further asked by the Court, if in her experience if people have carried out the threats to the point where they have actually done harm to themselves, she said, "yes." Noting that "there is a whole range" of what people might do.

Fitelson testified as to her discussions with him about prior relationships. "In the context of the relationships, you know, what we discussed was that his pattern was to --he would have some difficulty with rejection or being - - or trust issues I would say. And he would generally cope with them by perhaps arguments or sometimes not trusting the person, and that would end up in ending the relationship." Based on these discussions, she did not get the impression that these disputes became physical, either with him as an aggressor or being the recipient of aggressive contact, from a girlfriend.

In determining that she does not foresee the same type of problem happening again with the Respondent, she stated "I believe that Detective Lebron has changed significantly, that he understands a lot more about his patterns in relationships and he has been able to keep a much better perspective on coping with stressful things, whether they be work stress, family stress or relationship stressors."

When asked if she could not completely rule out the possibility that the behavior that he exhibited on October 20, 2007 would repeat itself she stated "there is no way to say that about anything. I am as sure as I can be..." When further asked if some difficulty was to arise with coping with stress or rejection or adjusting to handling stress that are present in a relationship could she rule out the possibility that he could repeat the same type of behavior, she stated "I could never completely rule it out for anyone, but I don't believe he is at higher risk than most people of that." When further asked if someone who had a history of [REDACTED] and difficulty coping with stress, (which is what she diagnosed the Respondent as having), would they be more likely to have a history of repeating a situation like this than someone in the general population that does not have a history of [REDACTED] or coping problems, she implied "in general, yes, I would say that."

On re-direct examination, Fitelson noted that "I believe that the Detective Lebron in contrast to most people with [REDACTED], has made a lot of long lasting changes that actually put him at lower risk than most people with a history of [REDACTED]."

Doctor Alice Steiner

Steiner is a level two psychologist at the Department's Psychological Evaluation Section. She stated that the Psychological Evaluation Section primary purpose is to perform fitness for duty evaluations. Steiner has been employed in this capacity for fifteen years.

Prior to that, she had worked for two-and-a half years at Coney Island Hospital in the comprehensive drug abuse treatment program and she obtained her Doctorate at St. John's University in 1998 and received her license in 1999. She was promoted to level two psychologist in 2000.

Steiner stated that the Respondent's case was re-assigned to her from Doctor Fiona Radcliff after Radcliff left the Department. Steiner acknowledged that on October 20, 2007, Radcliff was asked to do a fitness for duty response report for the Respondent. After reviewing the file, Steiner learned that Radcliff had interviewed the Respondent about that incident and she obtained a background history, so that she (Radcliff) could make an adequate evaluation as to his mental state and how to proceed with his case. According to Steiner, as to proceeding with a case of this nature, "there are two options really. Option number one is if the person is considered currently any imminent danger to self or others, we have to transport to a hospital for a psychiatric evaluation and possible admission. If we do not consider them imminently dangerous to themselves or others, if their guns have not been taken already, we ask that the guns be taken, and they are directed to come into our offices in the morning of the following business day."

Steiner stated that Radcliff did not believe that the Respondent was a danger to himself or others on October 20, and in addition, she called Doctor Propper "who is the clinical coordinator for the psychological evaluation section and he was her supervisor, so she must have run it by him." She further explained that in any psychological evaluation when an evaluation for dangerousness is being done, "you want to be sure that the person either is really not dangerous or doesn't have access to means which is why we have the

firearms held pending further investigation..." She added that the member, as in this case, is placed on restricted duty.

Steiner said that there are additional requirements to determine fitness for duty in the form of guidelines, which need to be followed, that are contained on a fitness for duty evaluation form. She stated that, "it's really a history and current mental status, who do you live with, briefly about family of origin, about significant other relationship, children, if the person has close friends. Alcohol, always inquire about alcohol. That's a big one, particularly on the job. Have they been in any physical fights since their appointment with the Department not counting perpetrators. We ask sometimes about the arrest history, medical history, are there significant medical concerns that could contribute, have they ever been in psychological treatment or history of treatment, have they ever been arrested and current mental status."

Steiner testified that Radcliff was the psychologist who monitored the Respondent and conducted interviews of him. During that time, Steiner had not yet met with the Respondent and was not present for any of those interviews. Steiner's knowledge of those interviews came from a review of Radcliff's notes.

Steiner stated that Radcliff placed the Respondent on restricted duty and referred him to Columbia Presbyterian for treatment in the two-day [REDACTED] Program. The Respondent completed that program and then began [REDACTED].

Steiner stated that Radcliff met with the Respondent again in February of 2008 to monitor him and to see how he was doing. She stated that monitoring consisted of "meeting with somebody, asking them how are they doing, what's going on, how is their treatment, are you taking medication, are you going for therapy, how do you feel, what's

going on with the relationship that caused all the problems." She stated that Radcliff did not meet again with the Respondent after February 2008.

Steiner stated that she took over the case from Radcliff in May of 2008. Prior to meeting with him, she reviewed his file and the impression she got from that review was that, "it looked like I would probably need to refer him to the counseling unit for alcohol treatment for their evaluation ...because there was alcohol involved in the incident...." When asked prior to meeting with the Respondent, if she had an impression as to where this case would lead, she said "if it played out in a positive manner, he would be returning to full duty; and if, in fact, he did not respond well to treatment, we would be putting him in for survey." She explained that survey is "a recommendation for disability retirement, but that was premature for us to discuss that, and we just had to see what happened. That's the reason to monitor over time and not to call it an adequate fitness for duty evaluation in a situation like that based on two months, three months."

Steiner stated that the Respondent was sent to a twenty-eight day in-patient alcohol treatment program, which he completed. When she met with him in August 2008, he had not yet completed the program, but her impression of him was that she was astonished in that he was doing so well and made tremendous improvement. When asked by the Court, what was the improvement that she was referring to, she stated "when he walked in, in May, and I met him, he seemed [REDACTED]...I asked him how his mood was, he said it was somber. That's exactly how he looked. He was rather avoidant as far as discussing the referral, the incident. He was not really taking responsibility for what happened and for his role in it. I was concerned he was lacking insight and that I would not be able to clear him. Due to he was [REDACTED] lacking insight, he was avoidant."

The Court then asked what was the Respondent showing her that made her come to these conclusions and she stated, "He was sitting there...with his head kind of down. Not really looking directly. He looked sad. He stated his mood was somber, and it felt like I had a somber person sitting in the room with me." When asked if she would have recommended him for duty at that stage, she stated, "No, I would not have." When further asked by the Court what would have been her concern at that time, she replied "he hadn't addressed the issues sufficiently. I was also very concerned that the alcohol issue had not been addressed, and that often can be a substantial part of it. I was concerned that he was not open about what had gone on. He didn't want to discuss it, which means he wasn't really taking responsibility for it. And if you don't take responsibility for it, there is no way to move on." She acknowledged this was her opinion as of May of 2008.

Steiner further testified that in August of 2008, "his mood was very definitely brighter. When I asked him what had gone on, he was very open. He told me he discussed the incident. He said he was learning to deal with stress. Obviously, he was in recovery. I asked him about that, and he was participating in the various recovery activities which was exactly what he should have been doing. And part of alcohol treatment, although I am not an expert on it, is also education and stress reduction and other positive ways of coping than drinking. So clearly, he had taken that to heart and it was like I had a different person sitting in the room with me. I was absolutely astonished. I really had not expected that. Sometimes it happens, but it's not something that I expect."

Steiner stated that she saw him again in September of 2008 and he was even more open and more comfortable sitting and talking with her. Prior to seeing him in

September, Steiner stated she conferred with Doctor Knour<sup>2</sup>, because she felt that she really did not have enough to recommend that he be retired on disability. She stated that Knour agreed with her and that it sounded like there wasn't enough to "survey him" off the job. Steiner then called Doctor Hirsch, who was treating him at the time, and he "gave really a rousing endorsement, the likes of which I seldom heard, and I called the CO [Commanding Officer], who said he was just fine. I saw him again in September [2008] and then wrote it up for closing, and Doctor Knour and I had signed off on it in October [2008]."

Steiner was then asked to explain the criteria for surveying someone off from the Department and she explained "If by carrying a firearm they are going to be a danger to themselves or anybody else, it's an obvious grounds for survey. If they have a diagnosis which makes it problematic for them to carry a firearm, like if they are schizophrenic, have problems with reality testing, or say bipolar and have severe mood swings, that would preclude carrying a firearm. If their judgment is just really bad, sometimes people don't have a diagnosis that's terribly serious, but they have exhibited endlessly poor judgment and show no growth in dealing better with stress and coping better so that you can't say, okay, going forward it's not going to be the same old business, then that would be an indication to survey them. If they are super, super impulsive, and again, you haven't seen any change. If they have very poor judgment and they are still drinking, that's cause for concern. But in fact, we returned firearms to many people who have been through the counseling unit and have had sometimes somewhat serious incidents, and they have gotten treatment and they have moved on from it."

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<sup>2</sup> Doctor Arthur Knour is the Director of the Department's Psychological Evaluation Section.

Steiner acknowledged that in her fifteen years with the Department, the Respondent is not the first member of the service who exhibited [REDACTED] gestures. She further acknowledged that other members of the service in that situation had been recommended to return to full duty. She stated that the criteria when a person reaches a threshold where she would recommend to return them to full duty is, "very clear mental status, no depression, no suicidal or homicidal thoughts, no severe anxiety, no frankly psychotic symptoms which wasn't an issue at all in this case, good judgement or at least adequate judgement, adequate impulse control, adequate reality testing. One of our criteria, particularly domestic incidents, is that there has been nothing that's gone on recently, that there is a period of quiescence, and in fact, there was nothing in this case after the referral incident. In other words, have they moved on. That's sort of the bottom line on it."

When asked what her discussion with Hirsch was with regard to him giving the Respondent a glowing review, she stated "actually, we did not have a long discussion. We didn't really need to because he said to me right off the bat, this is as good as it gets. He said that he was insightful and cooperative with treatment, and he was just fine with, you know, he couldn't say he was okay to give him back his gun. That was for us to decide. But clearly, he was endorsing it."

Steiner was shown Respondent's Exhibits [RX] A, B, and C, and she stated that RX A is the "firearm restoration closing note, which is our internal form that goes into the case that very briefly says what the individual was referred for, notes when we put them on restricted duty, and that there is no contraindication psychologically to him

carrying firearms." Steiner says that she signed this document and she is the only one signing it.

Steiner acknowledged that RX B is her September 26, 2008 typewritten closing summary<sup>3</sup> and RX C "is the official restoration form that both Doctor Knour and I sign, and it goes I think to the Chief of Personnel's Office." Steiner stated that the purpose of that form is to signify that she is officially finished with the case and that "we feel he can carry a firearm, all the T's have been crossed and the I's have been dotted, and this is to work its way through the Department so he can be given back his firearms." She stated that the document was signed off on October 21, 2008.<sup>4</sup>

Steiner, while she was technically finished with the case, met with the Respondent. He contacted her, letting her know that he was being asked to vest<sup>5</sup> from the job and she talked to him again for approximately forty-five minutes. She continued to be impressed with how well he was doing. She again stated that she did not have any reservations about the Respondent being returned to full duty.

On cross-examination, Steiner stated that when she was assigned the Respondent's case, she reviewed all the reports that were prepared prior to her getting the case including the Medical Division file, the duty captain's UF 49 report and all the reports prepared by Doctor Radcliff including her notes. Steiner testified that she personally interviewed the Respondent on three occasions: May 2008<sup>6</sup>, August 2008 and

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<sup>3</sup> RX B is Steiner's closing summary report and is reflected in her testimony at this trial.

<sup>4</sup> Under the Psychological Evaluation Section this form notes that "The evaluation is complete. There is no psychological reason why this member cannot perform full duty with firearms."

<sup>5</sup> The Respondent was indicating to Steiner that he was being asked to agree to retire from the Department—a vested retirement.

<sup>6</sup> Steiner generated a report in May 2008 when she took over the case and drafted a brief statement of the facts of the October 20, 2007 incident, the Respondent's statements, references to Radclif and Fitelson and Steiner's "impression(s)." (DX 1) The information in this report is also reflected in her testimony at this trial.

September 2008. Steiner did not know exactly how many times the Respondent met with doctors at Columbia Presbyterian. He did tell her that he attended weekly therapy and then his therapy was changed to every other week. Steiner never spoke with Fitelson regarding the Respondent's therapy because Fitelson was on leave and when she returned, the case was closed. Steiner acknowledged that she really did not get a lot of details from the doctors at Columbia Presbyterian because when she contacted them she was immediately told that, "this is as good as it gets" with regard to how the Respondent was progressing. In essence, Steiner acknowledged that she basically took the Respondent's word for it when he told her how often he was meeting with the doctors at Columbia Presbyterian.

Steiner further acknowledged that alcoholism was an issue of concern in the Respondent's case but she did not know if alcohol abuse or issues of alcohol were addressed during his sessions with Fitelson or Hirsch. Nor did she know if issues of his involvement in previous domestic disputes were addressed. Steiner did say, however, that if she had concerns about the Respondent not being compliant or if what he told her was inconsistent or not forth coming with her, she would have requested his medical records from Columbia Presbyterian. When asked if she was concerned about finding out if the information that the Respondent initially provided Radcliff at the time of the incident and shortly thereafter, was consistent with issues that were being addressed in his regular therapy, Steiner replied, "No, I really wasn't. He was open enough. As a psychologist, one of the things I evaluate is whether the person appears to be truthful, and he did appear to be not only truthful, but increasingly open and willing to discuss what was going on. Initially, he had been somewhat guarded and hesitant about talking about

what was bothering him, but he did open about it. So I felt comfortable with it." With regard to the issue of alcohol, she stated that he received [REDACTED] in the Counseling Unit and completed the program and she was therefore, "satisfied that the alcohol was being addressed."

Steiner was referred to the Duty Captain's<sup>7</sup> report by the Assistant Department Advocate and she acknowledged that she reviewed the report and that it noted that the Respondent's [REDACTED], the complainant, stated she had broken up with the Respondent a month before the October 20th incident because of his obsessive insecurity. She also acknowledged that the report indicated that some of their previous verbal disputes had escalated into physical disputes and further acknowledged the report indicated that on two prior occasions the Respondent threatened to hurt himself during phone conversations with the complainant during the month they had broken up.

Steiner further acknowledged that the report also detailed the Respondent taking a loaded firearm and putting it up to his head or neck area while he stood in proximity to another individual on a public street. Steiner also took into account, in making her assessment of the Respondent, the risk of harm to himself and others during the October 20 incident. Steiner was aware that there was at least one witness, other than the complainant, that was close enough to witness the incident and call 911.

Steiner was aware from Radcliff's notes that there was a history of [REDACTED] in the Respondent's family, specifically that his [REDACTED]. She considered that the history of [REDACTED] in his family was "significant, but it's not an automatic no, we will never consider returning your firearms...because there is a genetic component

<sup>7</sup> As pointed out by the Department Advocate, the Duty Captain's Report was made soon after the October 20 incident. While Steiner was testifying as to her memory of that report, the report was not offered into evidence.

then, that would be one issue. He had also grown up in a difficult circumstance, that's another issue."

Steiner further testified that in 2001 the Respondent in 2001 responded to an ad from either Montefiore or Mount Sinai Hospital to be put into an experimental group for therapy. She stated that he volunteered for the group because he had been [REDACTED] and was having some issues with another romantic break up. Steiner acknowledged that in Radcliff's notes the Respondent admitted to taking his gun out in front of another girlfriend at the time to get her attention. Steiner noted that Radcliff's report contained the questions and answers regarding him taking out his gun in that 2001 incident: "Question: Ever done this before? Answer: Yes, in 2001 did take out his gun out in front of the girlfriend he had at the time. He stated that he also did this for 'to get her attention.'"

Steiner acknowledged reviewing that statement and considered it significant in that "this was a man who, at least up until the time that we met him, was having a very difficult time dealing with breakups and with romantic relationships, with anger, with loss, and that he was not coping appropriately." When Steiner was reminded that Radcliff noted that the Respondent, at first, denied putting the gun to his neck on October 20, 2007 and it was only after she told him with there was an independent witness to the incident that he admitted to pointing the gun to his neck and whether that notation made her feel that he was having difficulty taking responsibility for his actions, she replied, "No. That's actually extremely typical of our initial fitness for duty evaluations. It's more common than not. What concerned me was when I met him he didn't want discuss the incident. He was reluctant to talk about it." Steiner did not think that the Respondent

was trying to withhold information, rather he eventually told her he was extremely embarrassed about it and that was why he avoided talking about the incident.

Steiner was asked if she knew that Fitelson was not aware of the 2001 incident involving the Respondent taking his gun out during a dispute with his then girlfriend and she replied, "No." When further asked if that would have changed her opinion that he made marked improvement in August and September of 2008, if she had known that he never addressed that incident with Fitelson, Steiner replied, "I don't think so. Because this is all going forward. Clearly, he had some problems of not coping in the past that were not adaptive, not working well for him, that were causing problems for him and other people and putting him and others at risk. But in treatment, in [REDACTED] treatment, and [REDACTED] by learning new coping skills he would be moving forward."

Steiner stated that the fact that the issue of alcohol abuse and his prior involvement with his gun in 2001 were not addressed during his regular counseling sessions was "really up to the therapist to decide how the individual is doing then. If they have any concerns with Detective Lebron's coping skills, or progress in treatment, or commitment to treatment, or commitment to improving himself, they would have expressed them."

Steiner acknowledged that it is her responsibility to make recommendations on behalf of the Department regarding whether or not she believes the Respondent qualified to be restored to full duty. When asked if she considered it important to find out if the issues regarding alcohol abuse and prior history of disputes were being addressed with his regular therapist in order to make her recommendation, she replied, "I am not sure. It's really up to them to do the treatment. Again, as far as the alcohol portion goes the

counseling unit is really primary in that treatment. As far as coping skills go, judgment, impulse control, mental status, that is primary for the therapist. There are some therapists, who in addition to alcohol treatment elsewhere, will focus on alcohol. There are some who won't, but the therapy is very effective. So I can't make like a blank judgment on it. As a matter of fact, what Doctor Hirsch said to me in addition to it's as good as it gets -- I am trying to think of the word. He shows very good control. I think he said that his judgment is good, which is what we are looking for." Asked if she ever found out what the basis was for Hirsch's conclusion when he stated "it's as good as it gets" and he shows very good control, Steiner replied, "No, I didn't ask him further because he is a professional, he is very experienced. I had interactions with Doctor Hirsch before, and he has not always given his stamp of approval. And to me, that was okay. He was giving me his bottom line, and I was okay with it."

Steiner acknowledged that in reviewing Radcliff's notes, the Respondent had indicated that the verbal argument on October 20th with his girlfriend became physical. He pulled her hair and when she attempted to walk away, he grabbed her by pushing her against the car. Steiner also noted that there were inconsistencies in the Respondent's reporting to Radcliff and then to Steiner, regarding the number of drinks that he had had on the night of the incident. Steiner said, "That's routine. Totally routine. . . . He told one of us I think that he had one drink at the bar and he went home and had one drink at home before he went to bed. I believe he told that to Dr. Radcliff. He told me I think he might have had one or two drinks at the bar, and I think he said he did not have a drink at home. But of course, by that time it was seven months later and he may not really have remembered what he had. Not being forthcoming about alcohol issues or not completely

forthcoming. How much he had to drink, I really don't know, but again, this is absolutely routine on most interviews we do with police officers. Unfortunately."

Steiner acknowledged that the Respondent admitted he left a round in the chamber of his gun and recalled him stating that he removed the magazine. Steiner found it important to put in her notes that while he knew there was a round left in the chamber, "he speculated that he probably did not want to hurt himself." She explained that this was important because, "I suppose that raised some question about his motivation on the night that it happened." When asked if she was saying that he probably did not want to hurt himself Steiner replied, "I wasn't sure because it seemed to me that he was really clear when I asked him about it several times. He said that he did it to get attention, this whole performance. And then in 2001, he told me that in 2001 he did it to get attention. So was he actually [REDACTED] ? I am not sure that he was. He certainly was attention seeking, and he was angry, and he was not handling it right."

Steiner specifically noted in her closing summary of September 26, 2008, that alcohol played an "impulsive acting out" (RX B), because he had been drinking prior to the incident with the firearm. Steiner was asked, within a reasonable degree of medical certainty, considering the Respondent's prior history, whether it was possible that he could repeat the behavior that he had exhibited in 2001 and 2007, in the future and she replied, "I don't think there are any guarantee's on human behavior, plus or negative. It's always possible. Do I think it will happen? No, based on the changes that he demonstrated." When asked if she was referring to the changes that she noted from May until August, she replied, "Yes, and then again in September, and then even more in March. When I interviewed him in March, I asked him how he was doing, what was

going on. He noted several things. He had wanted to go back to college and thought he had one class left to finish. It turned out he probably had several classes, but he was patient about it, he was not angry, he was not annoyed that he would be required to do more. He said that he had gone back to church and sometimes a spiritual component is very important in somebody's treatment. If it is something that's important to them, it's very significant that he did, which means he has community support and support of the church. And he said that he had people to talk to, he had his mother, he had friends he could talk to, and I remember him saying to me there is always plenty of help out there. Meaning if he ever found himself on shaky ground, he would go and get the help."

Steiner was asked if it were possible for him to engage in this same behavior if he were to indulge in alcohol, she replied, "It's possible, but frankly, I don't think it's likely because he is hooked up with AA, he has had [REDACTED] treatment."

Steiner further explained that she did not say that it was impossible for him to repeat his behavior but she did not think it was "likely." She noted that "if you follow that through, no police officer who has completed the counseling unit program should ever receive his firearm back." When asked again if there was a possibility of a relapse by the Respondent, Steiner replied, "there is always a possibility." When asked by the Court, if during a relapse if there is a possibility of doing harm to himself and someone else with his gun, Steiner replied, "Right. I don't think you can ever rule everything out a hundred percent when it comes to human behavior." When further asked by the Court whether she could rule out if he would threaten his life in front of someone else in a public place again she replied, "No, I couldn't rule anything out a hundred percent."

On re-direct examination, when she was asked how confident was she in her recommendation that the Respondent could return to full duty and execute the duties and responsibilities of his position effectively, she replied, "Very."

[Steiner's reports of May 2008 (DX.1) and September 2008 (RX B) contain her thoughts and conclusions concerning the Respondent. In her May 2008 closing remarks she states "Additional concern—MOS seems to deal with the incident by 'try[ing] not to think about it.' He seems quite lacking in insight about his several issues and could only speculate 'probably did not want to hurt [my]self.'"

In her closing remarks four months later in September 2008, Steiner states "In summary, mental status is clear. Alcohol played a role in MOS's impulsive acting out, and he appears to be using [REDACTED] and [REDACTED] to very good effect. In the four months the undersigned has known MOS, there has been an impressive positive change in his demeanor, openness, insightfulness and acceptance of responsibility. In addition to his near completion of [REDACTED], he completed the DIEP on 4/2/08. It is therefore recommended that he be restored to full duty and that this case be closed.]

#### The Respondent

The Respondent is a 12-year member of the Department, currently assigned to Bronx Narcotics as a Detective Investigator. The Respondent has been an Investigator for approximately two years and an undercover police officer for approximately seven.

The Respondent testified that he had an 18-month relationship with his girlfriend, [REDACTED], who was his girlfriend on October 20, 2007. He stated that during those 18-months, he was committed to the relationship and he was making plans to marry her

and start a family. He stated that "towards the tail end we started to have different issues, differences in opinions, differences in just the way we did things... Basically, we were going back and forth between breaking up, getting back together, breaking up, getting back together. I would do it one week, she would do it another week and eventually get back together, hang out, everything was fine, and eventually something would go wrong. That's how it was for the last six to eight weeks... I was pretty upset about the whole situation being that I was, like I said before, committed to the relationship. I thought I was going to get something that I had not had before. Like I said, never been married, never had kids. She was all for it during the relationship. So I was pretty upset about it, bothered by it. I was down about it."

He stated that towards the end of their relationship, they had this back and forth relationship where they were to meet and talk about what they were going to do and then it got to the point where he wanted to set a date and time for them to talk about whether or not they would continue their relationship. He stated "So on the 20<sup>th</sup>, I decided I wanted to be the one to set the day and the time, and that was impossible. That's when the phone calls were very repetitious on that day." He stated that on October 19, 2007, he called her over ten times but was unable to reach her. He got off work between nine and ten o'clock and got together with a few guys from work and went out to a sports bar and had a couple of drinks. He stated that he couldn't remember exactly how many drinks but remembered "that my night was short because I was sort of out of it being that I was going through issues in my own personal relationship. I couldn't focus and I couldn't really have a good time with the fellows, so I decided to just go home, which is what I did."

The Respondent went home between twelve and one a.m. He stated that he was in bed when he got a phone call from one of his friends who was still at the bar "who I must have shared with him that I was having a hard time reaching the girlfriend at the time. He tells me, guess who I just saw.... We are still here and whatnot. She is here hanging out with a group of people. It looks like she came from a Halloween party. Anyway, I'm just giving the heads up."

The Respondent stated that "at that point, I became furious and I was upset because I felt like the whole day I was trying to get a hold of her. For obvious reasons, I was being avoided. There were other things other than getting together with me, and which was my plan, and it didn't happen according to my plan. So I was infuriated and I was upset. I was highly upset. So what I did was I don't recall the exact time frames or when it happened, if she was still at the place or I was at home. I called her and I finally got a hold of her. Of course I shared with her the phone call I had just gotten. At that point, she tells me, okay, you want to talk, come over. So I got up from my bed, threw on whatever I had on, and I drove to her house and I parked in front of her house." He acknowledged that he was armed at the time. He explained that it was a habit for him to be armed for a couple of reasons, "number one, I did undercover work for so long that I always just for my safety just wanted to. You never know who is out there watching you. And number two, where I live, where I still live now, is kind of not such a safe neighborhood. So I walk from my apartment to my car lot it's like a walk and a half and to walk like four o'clock in the morning would be dangerous for me. So I always walk with my firearm." He stated that his intention was to finally talk with his girlfriend and figure out where they were going with their relationship.

When he arrived at his girlfriend's building, he double parked his car. He does not remember whether he called her on the cell phone on the way over or called her house, but at that point she came outside and he got out of his car and they were in between two parked cars, next to his car, talking. He stated that he told her he wanted to talk to her earlier and that she was avoiding him. He questioned her about her whereabouts and her unfair treatment of him, "and basically, that's when I guess she at that point, she showed she didn't really care too much, which made things escalate." When asked if at that point she blew him off, he stated, "pretty much." He further stated "[a]t that point, from what I remember, I guess she started to walk away, and that's when it really hit me and I felt like don't walk away. Of course I was angry and I was not as calm as I am now, and at one point, from what I remember, I actually physically grabbed her and didn't let her go upstairs. At that point, she kept on basically, from what I remember, she wasn't trying to hear it and at that point that's when not too far after that was when I decided to take my firearm out of my waistband." He stated that he did not harm her in any way but acknowledged that he held onto her so she could not leave. He stated that she did continue to try to get away and when asked if she did manage to get away, he stated "I guess she did because at that point that I guess when I decided to reach for my firearm I wasn't holding her, so yes. I went into my right waistband, I pulled out my firearm as discrete as I could, and I removed the magazine, put the magazine in my back pocket, and I proceeded to basically tell her that I wasn't trying to have it and basically wanting to focus on what I was saying for the first time that night being now that I had her in front of me." When asked if he specifically recalled what he said to her, he stated "no, I don't recall specifically, but from gathering the incident and everything

that happened, I am sure I told her that I was going to harm myself if she went upstairs. I put the magazine in my back pocket and I basically took the firearm, I had a long sleeve sweater on, and the firearm was still concealed with the long sleeve sweater that I had, and basically put it on my neck. Whatever it was that I said to her, I don't recall. I addressed her and that's what I did with the firearm.

In pointing the firearm at his neck, he stated "at the same time, I guess trying to get some sort of attention so it was towards the side of my neck." He stated that her reaction "was frightened. From what I saw, she really didn't want anything happening to me. She started to cry and told me basically to just stop what I was doing. At that point, to be honest with you, I don't quite remember exactly what I did because I think at that point everything happened so fast the RMPs that responded to the phone call arrived. So after that everything happened fast."

The Respondent stated that he never threatened her with the gun nor did he make any verbal threats against her or anyone else. When asked if he had any intention to harm himself and what was the purpose of putting the gun to his neck, he stated, "my purpose was to make a point and to get her, I mean, the way I went about wanting to her attention was the wrong way, and I wanted her attention after not getting it for so long the way I felt at that moment. After the RMP's arrived, I don't recall if I put the firearm back on my hip or what I did, but I do know one way or another the firearm was out of my hands because the way I was taught in training was as soon as a uniformed member of the service appears, they control the show and I was not trying to get hurt." He stated that one of the officers took his gun from him and took him to the local station house.

The Respondent acknowledged that when he arrived at the station house he met with Radcliff from the Counseling Unit and she interviewed him. He stated that he was honest with Radcliff and "from what I recall, I know I was very hesitant because I had a lot of fears at that moment. Everything happened right in front of my eyes and I couldn't believe what had just happened to me . . . I was very hesitant just talking about what happened aside from being embarrassed, and I was just in total disbelief that I had done what I just did." He stated that it took a little while for him to give her honest answers and did so after he became comfortable and sitting there for a while and "coming to my senses and realizing, yeah, what you did now basically you're going to have to talk about it..."

The Respondent then started seeing Fitelson. He was also sent for [REDACTED] [REDACTED]. Initially, he saw Fitelson once a week and is currently is seeing her at least once every two weeks but at most the intervals would be four weeks. He also went away for a month for [REDACTED] and also had counseling with Radcliff and Steiner. He acknowledged that it was Steiner who took over from Radcliff and referred him to the Counseling Unit. When he came back from the [REDACTED] counseling, he went to the Counseling Unit once a week and would go to AA (Alcoholics Anonymous) meetings five days a week for a period from three to six months on a weekly basis and then on a monthly basis and now currently every three months. He acknowledged that after his completion of counseling, Steiner recommended that he be removed from restricted duty.

The Respondent stated that during his counseling with Fitelson, he learned that counseling is effective. He believes he came a long way "aside from being embarrassed when I first met with Dr. Radcliff, I don't want to use the word denial, but I was pretty

much closed and I couldn't even ponder just being open about anything period. But the counseling definitely is very effective. It's a great tool. I am very appreciative that NYPD has such a program which is at no cost, and basically I wasn't forced to go to Colombia Presbyterian. That was my choice. And to this day, I still go not because I am forced, but like I said it's a great tool and I learned to know what it is to pick up a phone, make a call, don't be embarrassed if you are feeling hung out about whatever it is. And that's what the counseling, as far as when I went away for my 28 days, I learned a lot of things about alcoholism." He further stated that he also learned "how to deal with what it is to pick up a drink, what it is to relapse. Most importantly, what it is just to live one day at a time and be open about anything and everything."

On cross-examination, the Respondent testified that the last time he had an alcohol beverage was in May of 2008, which was not too long after he saw Steiner for the first time. He stated that he is not currently attending any kind of alcohol related therapy. When asked what preceded the moment on October 20, 2007, when he reached into his waistband and pulled out his weapon, he stated, "basically, from what I recall, her walking away and not wanting to hear me out." When asked what caused him to be so upset by her walking away he stated "I guess why did I have to wait until that time to be able to communicate as we have been doing the past few weeks. Why did I have to wait so long that day in particular? For obvious reasons, obviously she was hanging out and that's why I reacted the way I did."

He acknowledged that he physically tried to keep her from walking away because he felt angry that he had to wait until that moment to talk to her. He stated when he left his house to go and meet her he was "furious." He acknowledged that even though he

removed the magazine from his firearm he knew that one round remained in the gun's chamber. He maintained, however, that even though he brought the weapon up towards his neck area, he had no intentions of harming himself. When he was asked about, what he meant about being "upset about what had happened to me" describing when the on-duty members arrived at the scene, he explained "[t]he fact that I lost total control of my emotions, the fact that at that point I had not learned how to deal with my anger, with my emotional distress. I was very upset about that. I reacted the way I didn't want to react."

### PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974).

The Respondent was appointed to the Department on April 15, 1997. Information from his personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent plead Guilty to creating a substantial risk of serious physical injury to himself and to another person by standing on a public street and placing a loaded firearm up against his neck while his girlfriend was standing directly in front of him. He further plead Guilty to neglecting to properly safeguard his firearm.

On October 20, 2007, the Respondent culminated a difficult period he was having with his girlfriend by meeting with her to discuss their future. He had hopes of marrying her and having a family and she, according to his testimony, was going in a different direction. By his own admission, when he went to meet with her, he was "infuriated" and

"highly upset" because she had been avoiding him. He also went to meet her after having been drinking and was armed with his gun.

He met with his girlfriend on the street by her home and after attempting to discuss their future, she decided to walk away from him. At that point, as he stated in his testimony, "from what I remember, I guess she started to walk away, and that's when it really hit me and I felt like don't walk away. Of course I was angry and I was not as calm as I am now...from what I remember, I actually physically grabbed her and didn't let her go upstairs...she wasn't trying to hear it and at that point that's when not too far after that was when I decided to take my firearm out of my waistband." He then removed the magazine from the gun and still aware that there was one bullet left in the chamber, pointed the gun to his neck and as he stated during his testimony "I am sure I told her I was going to harm myself if she went upstairs." It is obvious and disturbing from his testimony that his memory of the incident is not clear in his mind as evidenced by his testimony when he stated, "Whatever it was I said to her, I don't recall. I addressed her and that's what I did with the firearm."

The Respondent claims that pointing the gun to his neck and threatening to harm himself was "about wanting to get her attention." His actions, however, were convincing enough to cause his girlfriend to become "frightened" and "she started to cry and told me how basically to just stop what I was doing." Equally if not more significant to the seriousness of the situation was the eyewitness' reaction to the event who apparently saw his threat as very real and called 911. When the police arrived, they took possession of his gun and took him to the stationhouse.

Shortly thereafter, he was interviewed by Radcliff. Along with telling her what had happened, he also let her know that in 2001, he previously threatened to harm himself with his gun during a difficult encounter with a different girlfriend.

He was then referred to Fitelson, where he entered into treatment consisting of weekly [REDACTED] sessions. As a result of his treatment, Fitelson was confident that he had come a long way and would not get into the same situation and while she could not comment on his fitness for duty she had no concerns that the Department Psychologist cleared him fit for duty.

Of concern to this Court, is that Fitelson, in all the time the Respondent was in her care, never learned that he had a prior incident in 2001, where he previously threatened himself with his gun. Fitelson had asked the Respondent, if he had any previous history of making threats of the kind he made on October 20, 2007 and he was not truthful with her and told her that he had not. She therefore had no knowledge of what had occurred in 2001.

Steiner's first impressions of the Respondent were reflected in her May 2008 report, where she wrote that she was concerned that he "seems to deal with the incident by 'trying not to think about it.' He seems quite lacking in insight about his several issues and could only speculate 'probably did not want to hurt [my]self.'" (DX1) At that point in time, Steiner acknowledged that there was the possibility that the Respondent could have been surveyed off the job, if he did not respond to treatment.

Four months later, Steiner stated she was "astonished" at the Respondent's progress and after consulting with Fitelson and her Department colleagues, she wrote in her closing remarks in the September 2008 report, that "there has been an impressive

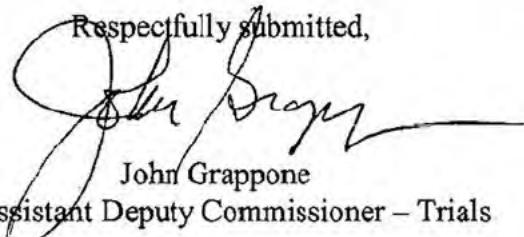
positive change in his demeanor, openness, insightfulness and acceptance of responsibility....It is therefore recommended that he be restored to full duty...." (RX B)

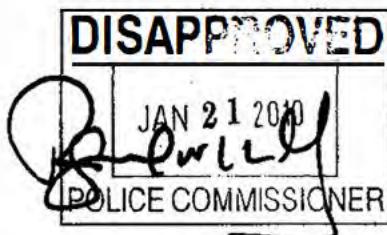
At the outset, this Court has great admiration and respect for the expertise and professionalism that Department Psychologist Steiner displayed in her approach in assessing this matter and in drawing her conclusions from the information she obtained and assessed, as to the Respondent's progress and having him be restored to full duty. Furthermore, this Court finds it admirable that the Respondent has received treatment and is in a better frame of mind than he was on the date of the incident. While his achievement is admirable, this Court must focus on the fact that this is not a case of just restoring a member to full duty. This is a disciplinary action brought by the Department because the Respondent committed an egregious act that cannot be tolerated by the Department -- he put a gun with a bullet in its chamber to his neck on a public street in front of his girlfriend with at least one other person in close proximity and threatened to harm himself. This was not a situation where he found himself with emotional difficulties or problems with alcohol and on his own sought help from the Department. Police had to be summoned to the scene on October 20, 2007, and after confiscating his gun, brought him to the stationhouse. He was ultimately placed on modified duty. The Respondent willingly agreed to receive treatment as a result of this incident, but at that point he was facing Departmental charges for his egregious actions.

The Respondent testified in mitigation of the penalty of separation from the Department in the hopes of being restored to full duty with the return of his firearm. The serious nature of his actions on October 20 2007, along with his prior history of threatening to do harm to himself with his gun, under similar circumstances, leads this

Court to further find, however, that there is still the possibility that he can have a relapse. Therefore while this Court is focused primarily on his unacceptable conduct in this current disciplinary matter, it cannot put aside the possibility that he may one day be in another relationship that challenges his emotions and his sobriety and cause him to slip back into a similar state of mind, where he is once again "infuriated" and "highly upset." Consequently, given the unacceptable and inexcusable nature of his misconduct and the ramifications of a possible relapse that could put lives once again in danger, this Court finds that the Respondent cannot, with any degree of confidence, remain in the capacity as an armed police officer of this Department.

Based on the foregoing, I recommend that the Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,  
  
John Grappone  
Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT  
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

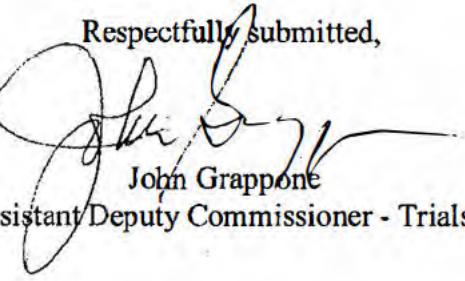
To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM  
DETECTIVE JUAN LEBRON  
TAX REGISTRY NO. 919288  
DISCIPLINARY CASE NO. 83889/08

The Respondent was appointed to the Department on April 15, 1997. The Respondent on his last two annual performance evaluations recorded in 2001 and 2007 and was rated 3.5 and 4.00, respectively. The Respondent was awarded two Meritorious Police Duty medals.

The Respondent's has no prior disciplinary record.

For your consideration.

Respectfully submitted,  
  
John Grappone  
Assistant Deputy Commissioner - Trials